

REMARKS:

Applicant has carefully considered the Office Action mailed November 29, 2004. Reconsideration of the application in view of this amendment in response thereto is respectfully requested.

Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Dempsey in view of Defenbaugh, Rigamont, Roman, Polselli et al, and Kuechenmeister. The Dempsey reference discloses a scoring and marking apparatus having stabilizing wings, a T-shaped body with a frustoconically-shaped handle knob on a head portion (col. 4, lines 22-23), and a plurality of spaced, staggered apertures or slots along a transverse portion of the T-shaped body to accommodate a marker (col. 4, lines 43-45). The Dempsey device, however, does not have slots exposed along an edge of the transverse portion of the body with indicia adjacent thereto, top surfaces of head and transverse portions being along a single plane, a plurality of roller bearings in a contact edge of the head portion, a U-shaped handle, or a groove along an edge of the transverse portion. To operate the Dempsey device, not one hand, but two hands, are required: one hand holding the knob to apply downward pressure on the device, the other hand placing a marking or scoring instrument in a selected one of the apertures, and both hands moving the device along the sheet material while maintaining the contact edge of the device against the side edge of the sheet material (column 5, line 64 through column 6, line 7).

On the other hand, the drywall cutting guide of the present invention also includes a U-shaped handle which enables a user to wrap his fingers around and through the U-shaped handle which provides the user with the leverage and ability to control the use of the present invention with one hand, thereby completely freeing up the user's other hand for operating and controlling

the cutting or marking instrument. The one-handed control provided by the U-shaped handle of the present invention, which one-handed control is not provided by the simple Dempsey knob, arises because the plurality of the user's fingers wrapped through the U-shaped handle provides leverage enabling the user to dynamically apply all moments needed to maintain the entire first edge 24 of the first body portion 22 in contact with the first edge 14 of the drywall while simultaneously maintaining the second face 70 of the transverse second body portion 50 in slidable abutting engagement with planar face 18 of the drywall by the user simply rolling his wrist toward the drywall. In other words, all unwanted prior art rocking motions are completely eliminated by the dynamic interaction of the user's one hand with the U-shaped handle of the present invention.

The Defenbaugh reference discloses a combination tool having top surfaces of head and transverse portions of a marking device in the same plane, and notches on the transverse portion with indicia adjacent thereto. The Defenbaugh device, however, does not have a T-shaped body, a plurality of roller bearings in a contact edge of the head portion, a groove along an edge of the transverse portion, or a U-shaped handle that allows a user to wrap a plurality of fingers therethrough to dynamically and simultaneously apply all moments needed to maintain the device in contact with an edge and an underlying surface of drywall.

The Rigaumont reference discloses a drafting implement having roller bearings on a contact surface. The Rigaumont device, however, does not have slots exposed along an edge of a transverse portion with indicia adjacent thereto, a groove along an edge of the transverse portion, or a U-shaped handle that allows a user to wrap a plurality of fingers therethrough to dynamically and simultaneously apply all moments needed to maintain the device in contact with

an edge and an underlying surface of drywall.

The Roman reference discloses a drafting implement having notches exposed along an edge of a transverse portion of a body. The Roman device, however, does not have indicia adjacent to the notches, a plurality of roller bearings in a contact edge of a head portion, a groove along an edge of the transverse portion, or a U-shaped handle that allows a user to wrap a plurality of fingers therethrough to dynamically and simultaneously apply all moments needed to maintain the device in contact with an edge and an underlying surface of drywall.

The Polselli et al reference discloses a curb marking gauge. Applicant traverses the use of this reference as a basis for rejection of this application because the Polselli et al invention constitutes non-analogous art. An inventor would not review the field of street, road and curb concrete construction in order to search for prior art in regard to a device for cutting and marking drywall, which drywall is typically either supported on a pair of sawhorses, or leaning against a stud wall to which the drywall is to be attached, while being marked or cut. Regardless, and while still traversing the use of Polselli et al as a prior art reference, the Polselli et al device does not have a T-shaped body, top surfaces of a head and transverse portions being along a single plane, slots exposed along an edge of the transverse portion with indicia adjacent thereto, and a groove along an edge of the transverse portion. Although the traversed Polselli et al device does have a U-shaped handle, that handle is for the purpose of rolling the Polselli et al curb marking gauge along a curb (column 3, lines 19-23). It would have been obvious to a person having ordinary skill in the art that the operating plate 22 to which the handle is attached is supported on four wheels 56, 58. Additionally, lateral movement of the operating plate is further limited by abutting engagement of wheels 72,74 with the vertical side surface 16 of curb 12 (see Fig.1). In

other words, the operating plate mounted on the four wheels 56, 58 -- either with or without wheels 72, 74 against the curb -- would prevent the Polselli et al handle from performing the same function as that provided by the present invention, namely, to enable a user to apply all moments needed to dynamically maintain contact with an edge and an underlying surface of drywall.

The Kuechenmeister reference discloses a ruler having a groove 23 along an edge to give added rigidity to the ruler; to lay pencils, pens or other drawing instruments; and to serve as finger guides, as in drawing long straight lines (page 1, column 2, lines 22-28). The Kuechenmeister device, however, does not have a T-shaped body, slots exposed along an edge of a transverse portion with indicia adjacent thereto, a plurality of roller bearings in a contact edge, or a U-shaped handle. On the other hand, the groove 74 along the second edge 54 of the second body portion 50 of the present invention is used by the user to rest the thumb or finger of his or her “freed-up” hand, namely, to serve as a “reference point” for the freed-up hand holding the marking or cutting tool if helpful, but not for a “finger guide, as in drawing long straight lines” as taught by the Kuechenmeister reference.

There is nothing in the Dempsey, Defenbaugh, Rigauumont, Roman, non-analogous Polselli et al, or Kuechenmeister references, singly or in combination, that teaches, suggests, or provides any incentive to modify or combine those teachings such that it would have been obvious to one skilled in the art at the time of applicant’s invention to provide a U-shaped handle that allows a user to wrap a plurality of fingers therethrough to thereby dynamically apply all moments needed to maintain a device in contact with an edge and an underlying surface of drywall for marking or cutting purposes as taught and claimed by the present application.

Applicant urges that claim 1 as originally submitted should be allowable over Dempsey in view of Defenbaugh, Rigamont, Roman, non-analogous Polselli et al, and Kuechenmeister.

Accordingly, applicant requests that the Examiner reconsider and withdraw the rejection of claim 1.

Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Dempsey, Defenbaugh, Rigamont, Roman, Polselli et al, and Kuechenmeister as applied to claim 1, and further in view of Granger. The Dempsey, Defenbaugh, Rigamont, Roman, non-analogous Polselli et al, and Kuechenmeister references have been hereinbefore addressed.

The Granger reference discloses a drywall T-square. The Granger device does have a T-shape with a head portion and a transverse portion. The Granger device, however, does not have slots exposed along an edge of the transverse portion with indicia adjacent thereto, a plurality of roller bearings in a contact edge of the head portion, a groove along the transport portion, or a U-shaped handle that allows a user to wrap a plurality of fingers therethrough to dynamically and simultaneously apply all moments needed to maintain the device in contact with an edge and an underlying surface of drywall.

There is nothing in the Dempsey, Defenbaugh, Rigamont, Roman, non-analogous Polselli et al, Kuechenmeister, or Granger references, singly or in combination, that teaches, suggests, or provides any incentive to modify or combine those teachings such that it would have been obvious to one skilled in the art at the time of applicant's invention to provide a U-shaped handle that allows a user to wrap a plurality of fingers therethrough to dynamically apply all moments needed to maintain a device in contact with an edge and an underlying surface of drywall for marking or cutting purposes as taught and claimed by the present application.

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Applicant urges that claim 2 as originally submitted should be allowable over Dempsey in view of Defenbaugh, Rigaumont, Roman, Polselli et al, Kuechenmeister, and Granger. Accordingly, applicant requests that the Examiner reconsider and withdraw the rejection of claim 2.

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Rigaumont in view of Roman. The Rigaumont and Roman references have been hereinbefore addressed. Claim 3 has been cancelled without prejudice or disclaimer. There is nothing in the Rigaumont or Roman references, singly or in combination, that teaches, suggests, or provides any incentive to modify or combine those teachings such that it would have been obvious to one skilled in the art at the time of applicant's invention to provide a U-shaped handle that allows a user to wrap a plurality of fingers therethrough to dynamically apply all moments needed to maintain a device in contact with an edge and an underlying surface of drywall for marking or cutting purposes as taught and claimed by the present application. Claim 3 has been amended to more clearly distinguish the present invention from Rigaumont in view of Roman. Claim 3, as now amended, should be allowable.

The Examiner is invited to contact the undersigned at the below-listed telephone number if it is felt that the prosecution of this application may be expedited thereby.

Respectfully submitted,

DANIEL A. TEPEI

A handwritten signature in black ink, appearing to read "Donald R. Schoonover", written in a cursive style.

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